

Juvenile Justice Improvement Committee

Judicial Conference of Indiana

Meeting
June 4, 2010

The Juvenile Justice Improvement Committee of the Judicial Conference of Indiana met on Friday, June 4, 2010 from 12:00 Noon – 3:00 p.m. at the Indiana Judicial Center.

1. Members present. Mary Beth Bonaventura, Vickie L. Carmichael, Gary K. Chavers, Richard A. Dailey, Deborah A. Domine, James D. Humphrey, Marilyn A. Moores, Lori K. Morgan, Peter J. Nemeth, G. George Pancol, Stephen M. Sims, and Loretta H. Rush, Chair.
2. Staff present. Jeffrey Bercovitz, Anne Jordan, Angela Reid-Brown, and Jane Seigel provided the committee with staff assistance.
3. Guests present. Laurie Elliott, Indiana Youth Law Team; Jason McManus, James W. Payne, and John Ryan, Department of Child Services, were also present.
4. Minutes. The minutes of the meeting on May 7, 2010 were approved.
5. Probation consolidation. Judge Sims discussed probation consolidation with the members of the committee. He stated an amendment to proposed Rule 18 to (1) include the Probate Court (2) provide if a court had a separate juvenile probation department on January 1, 2010, they may elect to operate as a unified or a separate juvenile probation department. In addition, a separate juvenile probation department was defined to include a separate chief probation officer and include only the supervision of juveniles. He also reported Rule 18 would give judges a forum in a county to get together and function as a board if they wished.
6. JDAI. Jane Seigel reported on her recent trip with others from Indiana to view New Jersey's statewide Juvenile Detention Alternatives Initiative, which includes 13 of 22 counties in that state. The Indiana Criminal Justice Institute is working on a similar program for Indiana, which now includes Marion, Clark, Porter, and Tippecanoe counties.
7. NCJFCJ. Judge Moores distributed Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases, to members of the committee. She noted the very useful benchcards at the back of the book.
8. Presentation by DCS.
 - a. Jason McManus discussed how DCS conducts the background checks through the Indiana State Police for placements of delinquents outside the home. For most disqualifying offenses, the subject of the background check can seek a waiver from DCS from the disqualifying offense. However, DCS guidelines for criminal history are more stringent than the statute. The committee agreed DCS should send the results of the

criminal history check, along with any substantiated reports of abuse from DCS to the court, for a court determination of a waiver.

- b. Jason McManus reported DCS researched pick-up orders after the last meeting and concluded they are not considered orders of first removal.
- c. Director James Payne reported the draft kinship care policy distributed at the last meeting was not final. However, the policy is still under consideration and will be distributed for comment when completed.
- d. Director James Payne reported DCS will continue to prepare proposed orders in CHINS cases. Committee members agreed DCS should not prepare orders in Delinquency cases.
- e. Jason McManus distributed a proposed shelter care policy with revisions from DCS. Director Payne reported that through their efforts, the use of emergency shelter care has been reduced, with an increased of in-home CHINS or relative foster care. Jason reported the fiscal burden of shelter care has been shifted to DCS. He said that in one year there were about 1,600 emergency shelter care requests. Committee members indicated funding for shelter care has been moved from the counties to the state. The use of shelter care is crucial since not all children belong in detention. Director Payne said DCS is looking at changing emergency shelter care in licensing from 60 to 8 days and an emergency placement would be 30 days or less. He explained federal rule defines emergency as 8 days or less and anything over 8 days as a placement.

Committee members agreed by consensus in paragraph 2 to change “Probation Officer” to “Intake Officer,” and agreed to keep the new last sentence in paragraph 3, which was probably Indiana law anyway. Committee members agreed to look at the number of days in the first paragraph (which were reduced from 60 to 30) and DCS agreed to look at the language in the first paragraph which was removed (“situations where detention is necessary but the age, maturity, or risk level of a child make secure detention dangerous to the well-being of that child”) and prepare revisions. Committee members agreed to get their comments to the subcommittee that drafted the proposal, Mag. Chavers, Mag. Domine, and Judge Pancol. They would return the revised wording considering any comments to the Judicial Center. The Center would exchange comments with DCS within 30 days.

- f. Judge Rush stated DCS should give counties notice, as soon as possible, of whether or not individual courts are in compliance with all requirements needed to receive state funding for services or placements for delinquents. A court should not have to find out many months after a placement is made language was missing from an order which would cause the county to have to pay for a placement, rather than the state. Jason McManus reported if a deficient order is found, DCS will send out a letter pointing out the problem. He reported they are looking at all orders. Director Payne noted a special judge, pro tem, or senior judge could make a wrong order.

- g. Jason McManus reported, as previously announced, starting on June 1, 2010, probation officers will have 30 days to accurately input Title IV-E data on delinquency cases. This policy will be delayed until July 1. During this 30 day period, DCS will provide as much information as possible to the local judge on who did or did not enter the data accurately.
- 9. Presentation by Laurie Elliott, Youth Law Team.
 - a. Laurie Elliott distributed materials explaining the federal valid court order (VCO) exception.
 - b. Laurie Elliott explained legislation is pending in the U.S. Congress to phase out the valid court order exception over a three year period. During the three years, additional limits on the use of the VCO would be put in place. In addition, if a child is being tried as an adult, whether waived or excluded from juvenile court jurisdiction, they would not be permitted to be held pretrial in a jail.
- 10. Recent legislation. Committee members reviewed SEA 140, 163, 178, 224, 340 and HEA 1193.
- 11. DMC data points. Jeffrey Bercovitz distributed Disproportionate Minority Contact data points which are as part of the core protections of the Juvenile Justice Delinquency Protection Act of 2002 from the Indiana Criminal Justice Institute.
- 12. Next meeting dates. Members of the committee agreed to meet again on Friday, October 8, 2010 and Friday, November 5, 2010, from 12:00 noon – 3:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law